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STATE FOR IO/PSC/LIZ PARKER AND EAP/ANP/DAN RICCI

E.O. 12958: N/A

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SUBJECT: NEW ZEALAND'S RESPONSE TO IIC FINDINGS

REF: STATE 40595

11. The New Zealand government has investigated two companies named in the Independent Inquiry Committee's interim report released October 27, 2005, on allegations of illegal fund transfers to Iraq. The government investigation found no evidence of such transfers by the two companies. In addition, the New Zealand government investigated the dairy cooperative Fonterra, which had a Vietnamese trading partner that was named in the IIC report. The government also cleared Fonterra of involvement in illicit payments to Iraq. The New Zealand government so far has taken no action against individuals or companies as a result of the IIC's findings.

12. The Independent Inquiry Committee (IIC) in its October 27 report identified two New Zealand companies -- Ecroyd Beekeeping Supplies Limited and JB Sales International Limited -- as having supplied products under contracts that allegedly involved illicit fund transfers to the Saddam Hussein regime. The report also identified Vietnam Dairy Products Company as paying considerable kickbacks to the regime. The company purchased whole milk powder from the New Zealand dairy cooperative Fonterra, repackaged the product in Vietnam and then sold it to Iraq.

13. A check of files by the New Zealand Ministry of Foreign Affairs and Trade (MFAT) found that Ecroyd and JB Sales sought and received the proper approvals and exemptions required under the UN sanctions regime and New Zealand law to export to Iraq, according to a November 4 statement by Foreign Minister Peters. Caroline Bilkey, deputy director of MFAT's Legal Division, told post March 15 that the government investigation found no evidence of illegal kickbacks by the two companies.

14. Ecroyd told MFAT officials in 2002 that it had been asked to pay an additional 10 percent tax in Iraq. After consulting with the United Nations, MFAT told the company that such payment was illegal and that it should refuse to pay it. Ecroyd subsequently reported that an agent in Jordan said it no longer needed to pay the tax.

15. Bilkey said that at some point Fonterra became aware that its product was being repackaged in Vietnam and sent to Iraq. MFAT then sought and obtained an exemption from the Foreign Minister for indirect exports of whole milk powder to Iraq. The government investigation found no evidence that Fonterra was involved in or had knowledge of illicit payments to the Iraqi regime. Bilkey noted that the IIC report mentioned only the Vietnamese company, and not Fonterra.

16. New Zealand is seeking additional information from the IIC to establish whether there are grounds to prosecute either of the two companies under New Zealand's anti-bribery laws. To do so, the New Zealand government would need evidence that the companies had knowledge and intention regarding the payment of bribes under the Oil for Food Program. The New Zealand Police have requested that the IIC share the information it has on these cases, and the IIC is expected to hold a telephone conference with the police soon.

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